IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA**

**WRIT PETITION NO : 4632 of 1998**

Between:
N.S.Chalam, E.No. 450280, S/o. Mallaiah,
R/o. Chipurupalli Village, Bobbilli,
Vizianagaram District.

**..... PETITIONER**

AND
1 Regional Manager, A.P.S.R.T.C., Vizianagaram.

2 Vice-Chairman Cum Managing Director, A.P.S,.R.T.C.,
Musheerabad, Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly in the nature of writ of Certiorari calling for records and to quash the proceedings No. Peshi/20 (113)/93-RM-VZM, dated: 9.11.93 issued by the first Respondent and consequential direct the respondents to give all the benefits deprived by the order of first respondent dated 9.11.1993 and pass.

**Counsel for the Petitioner: MR.T.DASARADHA RAMAIAH**

**Counsel for the Respondent Nos.1 and 2: MR.Y.V.SWAMY, SC for**

**Transport**

**The Court Made the Following :**

**ORDER:**

The petitioner who was working as a driver in the respondents' Corporation, filed the present writ petition aggrieved by the proceedings No. Peshi/20(113)/93-RM-VZM, dated 09.11.1993 issued by the 1st respondent, by which the petitioner was reinstated into service of the Corporation.

When the petitioner was driving the vehicle bearing No. AP9Z 4376 on 01-01-1993, an accident took place, in which a pedestrian died. He faced the criminal trial, which ultimately ended in acquittal. The respondents also issued suspension proceedings against the petitioner and accordingly a charge sheet was issued to the petitioner on 12.02.1993 and the Enquiry Officer after conducting detailed enquiry, submitted his report on 27.4.1993 holding that the petitioner is responsible for the accident. After issuance of show cause notice and receipt of the explanation from the petitioner, the petitioner was removed from service by the disciplinary authority on 10.06.1993 and the appeal preferred by the petitioner also ended in dismissal. As against the orders passed by the Appellate authority, the petitioner filed a review petition and in the review petition, the 1st respondent taking a lenient view, set aside the order of removal and ordered his reinstatement into service as a driver.

According to the learned Counsel for the petitioner, Sri T.S.Venata Ramana, having observed that the accident occurred due to the negligence of the deceased and the petitioner is not responsible, the reviewing authority ought not to

have imposed any punishment. Whereas, in the instant case, the petitioner's pay was fixed at the minimum time scale of driver which will have the affect on his future increments. It is further submitted by the learned Counsel that the period during which, he was under suspension was treated as "not on duty" and this is also wholly without any basis.

Heard both the counsel.

From a perusal of the order passed by the 1st respondent on 09.11.1993, it is clear that the reviewing authority i.e., Regional Manager, APSRTC, Vizianagaram-1st respondent herein has given a clean chit to the petitioner holding that he is not at all guilty of the charges levelled against him. It is necessary to extract the relevant portion of the order:

> "There was no fault of the Driver but the pedestrian only suddenly intended to cross the road without observing the bus and caused for the accident. From the above, it is observed that the appellant had observed opposite coming vehicle well in advance and driven the bus to left side in order to give way to the Lorry. After the lorry passed away the bus, he had driven the vehicle to right side and immediately applied brakes since he observed one pedestrian suddenly crossing the road from right side to left side, but the bus dashed the pedestrian. Therefore, I feel that the accident was occurred only due to sudden crossing of road by the pedestrian."

Having observed that the petitioner is not at fault and the accident was purely on account of the sudden crossing of the deceased, it is not known as to how the 1st respondent has

imposed the punishment of fixing his pay in the minimum time scale and treating the period of suspension as “not on duty”.

In the light of the said observation, this Court is of the view that the punishment imposed against the petitioner is not at all warranted and accordingly, the proceedings in Peshi/20(113)/93-RM-VZM, dated 09.11.1993, insofar as it relates to the punishment is concerned is set aside.

Accordingly, the Writ Petition is allowed. No costs.

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23rd June, 2004

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ASSISTANT REGISTRAR

TO

1. Regional Manager,
   A.P.S.R.T.C.,
   Vizianagaram.

2. Vice-Chairman-cum-Managing Director,
   A.P.S.R.T.C., Musheerabad,
   Hyderabad.

3. Two CD Copies.